PaperCom
ALLIANCE

December 3, 1997

Ms. Cynthia L. Johnson
Director
Cash Management Policy and Planning Division
Financial Management Service
U.S. Department of the Treasury
Room 420
401 14th Street, S.W.
Washington, DC 20227

Dear Ms. Johnson:

The PaperCom Alliance, an organization whose constituency represents millions of households nationwide, is pleased to respond to the Treasury Department's call for public comments regarding 31 CRF 208: Management of Federal Agency Disbursements, and the Proposed Rulemaking related to "Electronic Funds Transfer" ("EFT '99").

In essence, the Debt Collection Improvement Act of 1996 (see Public Law 103-134) seeks to have all federal payments -- except as otherwise provided -- delivered electronically after January 1, 1999.

We are greatly concerned that like the Susan B. Anthony coin before it, the EFT 99 concept is both logical in theory and implausible in practice. This letter details our concerns and also provides a series of recommendations which we believe will substantially enhance the program.

Summary of Our Conclusions and Recommendations

Given the length of this document, we thought that it was appropriate to summarize our conclusions and the recommendations that we offer based on those conclusions.

Major Conclusions:

* EFT 99 will result in a substantial increase in consumer costs for many bank transactions. Further, there are no independent studies, no estimates, no reports, no surveys and no examination of the full costs that recipients will face in the EFT 99 program.

* EFT 99 mandates and requires the creation of millions of accounts with high-cost financial institutions. There is no incentive to reduce account costs or ATM fees since, under EFT 99, consumers are made dependent on such services. Further, EFT 99

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clearly envisions the widespread use of financial institutions and ATMs, but it is not certain how many financial institutions will be able to participate in the program.

* The U.S. Public Research Group, in a recent study, shows that consumers paid an average of $182.27 to maintain a checking account with large financial institutions in 1997--up $17.76 from 1996 and more than the $190.33 consumers paid on average with smaller banks. The windfall to these larger banks will be substantial at the expense of consumers. How can the Treasury assume that EFT 99 will not create more costs for consumers?

* The losses that Treasury claims for forged checks are illusive. There are losses worth $65 million, but Treasury also sends out checks and disbursements worth $1.56 trillion dollars. In effect, while the Treasury system is not perfect it is remarkably close: Losses from counterfeiting, forgery, and alterations amounts to just .0000416 percent of the funds paid out. We agree that every $65 million counts; however, a sense of perspective suggests that the problem is not as significant as Treasury represents.

* The United States has always been a nation of immigrants and EFT 99 offers no consideration to the millions of people born in foreign lands who are not both productive U.S. citizens and respectful of their cultural heritages. What provision under EFT 99 meets the needs of this large and diverse group?

* If 41 cents is saved per EFT payment, then Treasury must believe that EFT will be used to process 244 million payments now made by mail and with paper checks. In essence, Treasury expects to convert 20 million payments per month from paper to EFT status. In a recent Disbursed Payment Volume Report, Treasury states that it disbursed 660,286,174 checks from October 1, 1996 through June 30, 1997 -- an average of 73.4 million checks per month. Of this number, 56 percent are already made electronically, meaning that 32.2 million payments per month are disbursed with paper checks. In effect, to "save" $100 million, Treasury must convert nearly two-thirds of its current paper payments to electronic media. The probability of this happening on a voluntary basis is zero.

* EFT 99 will not "save" the government $100 million even with universal acceptance of the EFT 99 program. If the Treasury no longer sends 240 million checks to Social Security recipients and others, it means there is less postal volume. However, fixed costs remain in place. There are still 38,000 local post offices, stations and branches throughout the country. There are still more than 760,000 career postal employees. To have universal deliveries, six-days-a-week service and facilities in rural areas require a certain level of volume and revenue. Treasury is simply sifting its costs on the back of postal customers through EFT 99 through the "transfer tax" that EFT 99 sets up.

Recommendations:

* Citizens must have freedom of choice and the right to select a form of payment best suited to their needs and preferences. There should be no requirement, preference or penalty for the election of any payment option to the federal government.

* The Treasury has an absolute obligation to protect the public against costly and unfair program fees. Financial institutions that participate in EFT 99 already have the benefit of holding public dollars and it is neither fair nor equitable to charge steep fees in addition. We offer six specific actions in this regard.

* Program options should be explained with concise and clear documents in English, Spanish, and such other languages as the Census Bureau certifies are used at home by at least 100,000 people.

* Program option information should be available from Treasury, all financial institutions participating in EFT 99 programs and any entity or government office willing to provide such information to the public.

* The money in question is the people's money. Individuals should have the right to receive checks at home or electronically, as they prefer, for any reason, including personal preference. They should also have the right to change options at least once a year without penalty or cost.

Our detailed analysis of this program continues below:

<u>An Overview of the PaperCom Alliance</u>

The PaperCom Alliance is a diverse group of companies and associations in the paper, mailing, software, printing, publishing, and transportation industries that share a common interest and common voice regarding the progressive future of paper-based communications.

We are keenly aware that the use of electronic media is becoming more common, and we understand that certain traditional uses of paper and paper-based communication will be impacted by new technologies.

But the nature of the marketplace is change, and our members welcome the advantages represented by the electronic era, in large measure because we are among the beneficiaries of the new technologies now emerging. While it may seem counter-intuitive, the overall reality is that our members have prospered as the use of electronic media has increased. As examples, *Between 1990 and 1995, paper consumption rose from 86.8 million tons to 96 million tons per year.

*The second-largest volume of envelope sales on record was generated in 1996. Dollar sales are at an all-time high.

*Advertising mail volume reached record levels in 1996, up 25 percent since 1992.

*The volume of paper checks went from 57.5 billion in 1991 to 63 billion in 1995, according to Federal Reserve estimates.

What we have seen is that the expanded use of computers and electronic media have been generally good for those with an interest in paper-based communication. Thus, from our perspective, we welcome a market-based and elective EFT program which is responsive to public needs and preferences.

Our Understanding of EFT 99

According to the "Commonly Asked Questions" material provided by FMS for public distribution (http://worldweb.net/eft/question.html), major EFT 99 elements include:

*Since July 26, 1996, all new recipients of Federal payments, except tax refunds, have been required to receive their payments electronically unless they have certified that they do not have an account with a financial institution. Beginning on January 2, 1999, all Federal payments, with the exception of tax refunds, will be made electronically. Waivers will be available to recipients under certain circumstances.

Waivers are available for:

*Individuals who began receiving Federal payments before July 26, 1996, and who have an account with a financial institution, are not required to receive their payments by EFT if they certify that payment by EFT will impose a hardship due to a physical disability or geographic barrier.

*Individuals who certify that they do not have an account with a financial institution and that payment by EFT would impose a hardship due to a physical disability or geographical barrier, or would impose a financial hardship, are not required to receive their payments by EFT.
(Make point that government is saving money financial hardship decision criteria)

The Proposed Rule:

*Provides for a waiver for recipients without an account at a financial institution for whom fees associated with EFT compliance would cause a financial hardship. Therefore, such a recipient should be eligible for a financial hardship waiver.

*Applies to all Federal payments with the exception of tax refunds whether they are recurring or non-recurring (one-time). However, the proposed rule includes a waiver provision for instances when the cost of using EFT for a non-recurring payment is greater than the cost of making that payment by check. The Department of the Treasury considers non-recurring to mean a frequency of not more than one payment in a 12-month period to a particular recipient.

The proposed rule also states that:

*Agencies will not be required to make international payments by EFT when the financial or communications infrastructure to support EFT does not exist in the country where the payment needs to be made. The Department of the Treasury's Financial Management Service (FMS) bureau is working to expand international Direct Deposit capabilities.

*Recipients who certify that they do not have an account by January 1, 1999, and do not submit a waiver request, will automatically be given access to an Electronic Transfer Account to receive payments electronically. Recipients will be provided with a plastic card which they can use at ATM and POS terminals to withdraw their funds. If these ETAs are not ready and available to recipients at that time, a general waiver from the requirement to receive payment by EFT will be granted until the accounts are available, or January 2, 2000, whichever is earlier.

Goals Vs. Purposes

Treasury has stated that through EFT 99 it, "seeks to bring into the mainstream of the financial system those millions of Americans who receive federal payments and who currently do not use the financial system to receive funds, make payments, save borrow or invest." (See page 48714 of the Federal Register, September 16, 1997)

However, the Debt Collection Improvement Act of 1996 provides no authority for the Treasury Department to replace Madison Avenue and promote the financial services industry with the full force and power of the United States government.

Indeed, the application of the Debt Collection Improvement Act of 1996 is limited to seven purposes, as Treasury itself explains:

> *To maximize collections of delinquent debts owed to the government by ensuring quick action to enforce recovery of debts and the use of all appropriate collection tools.
>
> *To minimize the costs of debt collection by consolidating related functions and activities and utilizing interagency teams.
>
> *To reduce losses arising from debt management activities by requiring proper screening of potential borrowers, aggressive monitoring of all accounts, and sharing of information within and among federal agencies.

*To ensure that the public is fully informed of the Federal Government's debt collection policies and that debtors are cognizant of their obligations to repay amounts owed to the Federal Government.

*To ensure that debtors have all appropriate due process rights, including the ability to verify, challenge, and compromise claims and access to administrative appeals procedures which are both reasonable and protect the interests of the United States.

*To encourage agencies, when appropriate, to sell delinquent debt, particularly debts with underlying collateral.

*To rely on the experience and expertise of private sector professionals to provide debt collection services to federal agencies. **(See: "Debt Collection Improvement Act of 1996" at http://fms.worldweb.net/debt/dmdcia.html.)**

(EFT 99 is not derived from debt collection)

The Hidden Transfer Tax

A "transfer tax" can be seen as the movement of funds from one group to another as a result of government action and EFT 99, by every standard, is a transfer tax.

To understand why EFT 99 constitutes a transfer tax, one must consider the entire payment process. Treasury states that it will save 41 cents each time it replaces a paper check with an electronic transfer. What Treasury does not say is that consumer costs will substantially increase!

When Widow Jones or Veteran Smith receive a retirement check at their home through the Postal Service, they know without question that payment has been received. There are no worries about when the check was credited to an account and thus no concerns regarding fees for checks written against accounts with insufficient funds, no requirement to use financial institutions, no required fees to maintain an account and no fees to withdraw money from an ATM. The citizen has control over his or her money and there is no obligation to use the services of a government-mandated middleman.

The government provides no independent studies, no estimates, no reports, no surveys, and no examination of the full costs that recipients will face as a result of the EFT 99 program. There is no mention of the time, gas, fare, or inconvenience to recipients who will no longer receive their checks at home or any consideration of individual preferences. (Check out that this may not be in favor of recipients).

Underbanked & OverCharged

Fees for accounts required under EFT 99 are repeatedly described as "reasonable." "Reasonable" to whom? "Reasonable" to retirees on fixed incomes or "reasonable" to financial institutions seeking to maximize profit margins? There is no explanation, and no justification, to explain why financial institutions are allowed to double-dip and have both the benefit of the float from mandated federal deposits as well as new fee income from federal beneficiaries.

Under EFT 99, the government will force millions of people to open accounts they do not need or want, and with costs that will be substantially greater than 41 cents per check.

The Treasury proposal will effectively compel most citizens to open accounts with "financial institutions" by January 2, 2000. The presumption is that financial services are available to all, and further, that such services are available at a "reasonable" cost.

Alas, the hope for "reasonable" costs is not supported by marketplace realities.

So-called "payment services" are a major income source for financial institutions. They amounted to $203 billion in 1996, including $115 billion for banks. (See: **American Banker, "Report of Paper Checks' Death Seen as Premature," September 30, 1997)**

Jane Bryant Quinn, a nationally-syndicated consumer columnist, states that in a pilot EFT program "started in Alabama in April and expanding to other southern states, accounts cost $1.92 per month. Recipients get only one ATM withdrawal free, at their home bank, and the bank can limit how much they take. Subsequent withdrawals cost 85 cents each. If account holders use other banks' ATMs, they might have to pay $1 to $3 for a withdrawal or to check their account balance," **(See: The Washington Post, "Federal Direct-Deposit Plans: Will the 'Unbanked' be Gouged," July 20, 1997)**. For those with fixed and/or limited incomes, such costs are a substantial expense.

ATMs fall into two categories: Those owned by institutions where individuals have accounts and those operated by other financial and non-financial institutions where consumers do not have accounts.

A study by the Government Account Office (GAO) found that, "from the end of 1995 to February 1, 1997, there was an almost 320-percent increase in the number of ATMs with surcharge fees--from about 15,400 (±6,500) to about 64,400 (±16,700)." **(See: "Automated Teller Machines: Banks Reported That Use of Surcharge Fees Has Increased" (Testimony, 06/11/97, GAO/T-GGD-97-123).)**

The GAO study also found that, "the average surcharge fee calculated for all ATMs operated by banks and thrifts more than tripled over this same time period."

"For years," says Senator Alfonse M. D'Amato (R-NY), chairman of the Senate Banking Committee (July 29, 1997), "the ATM networks told small institutions not to set up their own networks, but to issue ATM cards and their customers would have equal access to the major networks.

"Then in April of 1996, the big ATM networks pulled the rug out, changed the rules and began double charging. It is outrageous.

"The traditional ATM fee structure without the double charge helped pay for the deployment of practically every ATM around, so why double charge now?

"The intention of the networks is clear," says D'Amato. "They not only seek to raise billions by gouging consumers with these double charges, they also want to squeeze small institutions and dominate the electronic financial and payment systems of the future."

The GAO report and D'Amato statement are especially important in the context of the mandated accounts, and payments, which are required under EFT 99. As the Federal Reserve has stated, "regulatory compliance inevitably generates costs, which may be partially or fully passed on to consumers. In the long run, in a perfectly competitive market, prices would adjust so that consumers would bear all regulatory compliance costs.

"Alternatively, in a less than perfectly competitive market, the costs of regulation may be shared by producers and consumers in the long run, with the relative burdens depending on the elasticities of supply and demand. Additionally, government policies designed to address problems caused by market failure can affect the risks and returns associated with investment in developing new products and technologies. These effects can be particularly important when the product or technology being regulated is at an early stage of development." **(Board of Governors of the Federal Reserve System, "Report to Congress on the Application of the Electronic Fund Transfer Act to Electronic Stored-Value Products," Pages 11 and 12. March, 1997, emphasis ours).**

Rather than creating a competitive, elective, elastic, market-driven situation, EFT 99 instead mandates and requires the creation of millions of accounts with high-cost financial institutions. There is no incentive to reduce account costs or ATM fees since, under EFT 99, consumers are made dependent on such services.

What makes this situation especially malodorous is that huge ATM fee increases come at the very time that bankers are enjoying enormous revenues and income. According to the FDIC, commercial bank profits in the second quarter of 1997 reached $14.6 billion, a record. (See chart.)

Because of bank industry consolidation, consumers have fewer and fewer alternative financial institutions from which to choose. The inevitable result is higher fees and costs -- a conclusion confirmed in a study by the U.S. Public Research Group which shows that consumers paid an average of $218.27 to maintain a checking account with large financial institutions in 1997 -- up $17.76 from 1996 and $27.94 more than the $190.33 consumers with small banks paid this year. According to USA Today (July 31, 1997), the group found that "more than 12 million American families can't afford to maintain bank accounts and many others are paying too much."

EFT 99 clearly envisions the widespread use of financial institutions and ATMs, but it is not certain how many financial institutions will be able to participate in the program.

FMS reports that "26 percent of payments to companies and individuals who do business with the Federal government are made via EFT" **(See: http://fms.worldweb.net/eft/question.html, September 11, 1997).**

FMS explains that vendor participation in EFT has been limited because, "The low rate of vendor participation in EFT is attributable to several challenges. EFT payments to vendors are accompanied by electronic remittance data (such as purchase order numbers) that are crucial to vendors. Many financial institutions are not equipped with the technology needed to receive and pass on the remittance information to vendors. The National Automated Clearing House Association (NACHA) estimates that only 1,250 out of 24,000 depositary institutions are currently capable of both receiving and transmitting remittance information with electronic payments. In addition, customers of those financial institutions possessing the capability to pass on remittance information often are required to pay fees for this service."

Given that even government contractors do not wish to pay the fees involved with electronic payments, there is no reason to believe that a lucid and logical public will embrace EFT 99 and the costs it represents.

Adverse and Disparate Treatment

Despite the mandatory provisions under EFT 99, the fact is that financial services are not universally available. An entire body of federal law, the Community Reinvestment Act, exists specifically because financial institutions have historically failed to serve poor, minority and inner-city communities. EFT 99 forces citizens in these communities to rely on the very financial institutions which have habitually failed to open local branches, invest in local business and provide local mortgages.

None of this is news to the Treasury Department. In 1994, Treasury's own Comptroller sought to "impose fines and issue cease-and-desist orders to banks and savings institutions that systematically ignore poor communities." Surely the Comptroller would not have sought such authority without evidence showing massive discrimination. **("Rules on Lending To Poor Blocked," The New York Times, December 16, 1994)**

Dorothy Gilliam, writing in The Washington Post **("Time Will Tell True Impact of March," November 1, 1997)**, points out that, "black women are nearly three times as likely to live in poverty and nearly twice as likely to be jobless as white women."

The Federal Reserve Bulletin, **("Family Finances in the U.S.: Recent Evidence from the Survey of Consumer Finances," January, 1997)** notes that 13 percent of all U.S. families have no accounts with financial institutions. Significantly, 85 percent had household incomes of less than $25,000, 48.4 percent had annual incomes below $10,000, and 54 percent were nonwhite or Hispanic.

The question arises: Is there an independent study, report or examination which plainly states that EFT 99 will not create an adverse and disparate impact within minority communities? Is Treasury certain that under EFT 99 a white beneficiary in Houston and a black beneficiary in Harlem will receive the same treatment and opportunity?

Illusive Loss Claims

Treasury states that it now loses $60 million because of forged checks, $1.8 million in counterfeit checks, and $3.3 million in altered checks **(See the Federal Register, page 48715, September 16, 1997).**

What is not stated, however, is that these numbers do not exist in a vacuum. There are losses worth $65 million, but Treasury also sends out checks and disbursements worth $1.56 trillion dollars, according to the FMS 1996 Annual Report. In effect, while the Treasury system is not perfect it is remarkably close: Losses from counterfeiting, forgery and alterations amount to just .0000416 of the funds paid out. While we certainly agree that every $65 million counts, a sense of perspective suggests that the problem is not as significant as Treasury represents. Indeed, it would seem that Treasury's own numbers prove that counterfeiting, forgery and tampering are among the most rare and exotic crimes known, the felonious equivalent of getting hit by lightening.

No less important, Treasury provides no estimates of losses from electronic funds transfers. Are there none? If there are losses, how great are they? Will not such losses increase under EFT 99 merely as a by-product of more electronic funds transfers?

To suggest that electronic funds transfers are immune from criminal behavior is simply not credible. The President's Commission on Critical Infrastructure Protection recently issued a report on cyberterrorism -- a report that was promptly classified. In discussing the matter, USA Today **("Targeting Cyberterrorism, Government Declares War to Protect USA's Infrastructure," October 20, 1997)** notes that, "Leading security experts predict that it is only several years before a terrorist or rogue nation is capable of an on-line, hacker-style attack against the United States, causing massive failures of such crucial elements as banking or the financial markets, transportation systems, the power grid or telecommunications."

If Treasury is going to cite losses associated with paper checks, and it should, then it is equally obligated to disclose the current and projected losses associated with electronic funds transfers. It also has a clear obligation to review the potential impact represented by the growing threat of cyberterrorism.

Educational, Cultural & Linguistic Issues

In the Federal Register **(September 16, 1997, Page 48719)**, Treasury explains that, "The proposed rule does not provide waivers based on the recipient's educational level, limited literacy skills or lack of fluency in English. The experience of Treasury and the benefit agencies suggests that the obstacles posed by these factors are not uniquely associated with the use of EFT. Educational and language barriers can interfere with the comfortable and successful use of any method of payment, including checks and EFT."

Treasury proposes overcoming education and linguistic barriers through educational efforts both by itself and in conjunction with financial institutions. However, these are not new problems, they have been with us for decades, and past educational programs have not resolved such concerns. Brochures and posters will not materially change this situation -- they haven't to date -- and Treasury offers no objective studies, programming, standards, goals, time frames or budgeting to resolve this core issue.

More importantly, no consideration is given to citizen preferences. Many individuals simply do not want to open accounts with financial institutions for any number of reasons.

According to the Federal Reserve Bulletin **("Family Finances in the U.S.: Recent Evidence from the Survey of Consumer Finances," January, 1997)**, 13 percent of all families do not have any checking, savings, money market deposit, money market mutual funds or brokerage call accounts.

The study reports that, "from 1989 to 1995, a declining portion of such families reported that they did not write enough checks to make an account worthwhile, although this reason remained the most commonly reported. A sharp increase in the expressed dislike of banks appeared in 1995. The proportion reporting that they had insufficient money for an account remained approximately unchanged. At the same time, the proportion reporting that they could not manage or balance a checking account almost doubled. "

The United States has always been a nation of immigrants and EFT 99 offers no consideration to the millions of people born in foreign lands who are now both productive U.S. citizens and respectful of their cultural heritages. Part of that heritage has often been reflected in the development of private savings associations, including: "Kye" or "Keh" (Korean), "Hoi" (Vietnamese), "Tontines" (various), "Tanamoshi" (Japanese), "Hui" (Chinese), "Isusus" (Nigerian and Ghanadian) Su-su (Indian), "Ekub" (Ethiopian), and "Pasanaqu" (Bolivian).

One needs to ask what provision is made under EFT 99 to meet the needs of the millions of citizens who for reasons of culture and heritage elect to maintain their own financial institutions.

<u>The Need For Coercion</u>

In its press release, fact sheet and Federal Register statement, Treasury claims that it will save the Federal Government $100 million a year under EFT 99. Treasury also states that by going to electronic funds transfers, it can reduce processing costs per transaction from approximately 43 cents to 2 cents, a savings of 41 cents-per-payment.

If 41 cents is saved per EFT payment, then Treasury must believe that EFT will be used to process 244 million payments ($100 million divided by $.41 = 243,902,439.02) now made by mail and with paper checks. In essence, Treasury expects to convert 20 million payments per month from paper to EFT status.

However, in the FY 1997 update of Government wide Treasury-Disbursed Payment Volume **(see: http://fms.worldweb.net/eft/agency/volume.html)**, Treasury states that it disbursed 660,286,174 million checks from October 1, 1996 through June 30, 1997 -- an average of 73.4

million checks per month. Of this number, 56 percent are already made electronically, meaning that 32.2 million payments per month are disbursed with paper checks.

In effect, to "save" $100 million Treasury must convert nearly two-thirds of its current paper payments to electronic media. The probability of this happening on a voluntary basis is zero.

Income tax refunds, for example, are paid with paper checks and will continue to be paid with paper checks even after EFT 99 is established. In 1997, according to the IRS, there were 81,436,000 tax refunds. Of this number, 16,583,000 were disbursed electronically and 64,853,000 were sent through the mails. This means an average of more than 5 million refund checks a month are sent out by IRS.

The IRS refund program is unquestionably the single largest EFT program where citizens can choose between electronic payments and paper checks -- and their choice is overwhelmingly in favor of payment by check, even though most taxpayers have accounts with financial institutions.

In *The Financial Connection*, a quarterly publication produced by Treasury's Financial Management Service, a study sponsored by Treasury shows that 18 percent of telephone respondents and 25 percent of mail respondents do not have banking relationships **(See "Study Sheds Light on Recipients: The Check May Not Be in the Mail," September, 1997, Volume 6, Number 4)**. If we use Treasury's own survey estimates and say that 18 to 25 percent of 32.2 million current check recipients do not have bank accounts, then we have another 5.8 to eight million people who will not be waiting in line to get their electronic payments.

The Treasury study explains that major reasons for "not keeping a bank account include not having enough money to warrant an account and a need for an account and thinking banking fees are too high. Other reasons include a bad credit history, general distrust of financial institutions, and a desire to keep information about financial resources private, even from other family members."

So, given 32.2 million paper payments per month, less five million sent out for IRS refunds and 5.8 to eight million distributed to those without checking accounts, EFT 99 must coerce the public with mandates and regulations to "save" $100 million because the level of voluntary participation -- as shown by IRS refund statistics -- is unlikely to meet program goals.

Cost Shifting-Part I

Treasury will not "save" the government $100 million even with universal acceptance of the EFT 99 program.

To understand why, one must look at the composition of the alleged "savings." Treasury in large measure hopes to reduce costs by shrinking postal expenses.

However, this is merely cost-shifting. Both the Treasury Department and the U.S. Postal Service are part of the same government. What is "saved" by Treasury merely increases costs at the Postal Service.

If Treasury no longer sends 240 million checks to Social Security recipients and others, it means there is less postal volume. However, fixed costs remain in place. There are still 38,000 local post offices, stations and branches throughout the country. There are still more than 760,000 career postal employees. To have universal deliveries, six-days-a-week service and facilities in rural areas requires a certain level of volume and revenue.

If 240 million disbursements are removed from the Postal Service, it means that other postal patrons must continue to bear the system's fixed costs. In other words, Treasury is shifting its costs to postal patrons and the expense will be hidden in the form of future postal rate increases. This situation is the very definition of both a transfer tax and a regressive tax. To make matters worse, since the government is itself a postal patron, it too will face higher rates for the broad spectrum of materials, information, forms and data it sends to citizens.

One needs to ask what independent studies have been done by Treasury to account for the cost-shifting it proposes? A fair accounting of costs and benefits cannot be limited to Treasury balance sheets in isolation.

Cost Shifting-Part II

While the government will not net $100 million in cost savings from EFT 99, there is still big money involved.

If accounts typically cost consumers from $190.33 to $218.27 as US PIRG found, then the true beneficiaries of EFT 99 will be the nation's financial institutions. If one million new accounts are created because of EFT 99, and if no steps are taken to limit consumer costs, then financial institutions will gain annual revenues worth from $190 to $218 million. Over a five-year period, financial institutions will reap more than $1 billion in revenues -- and substantially more if a larger number of consumers, now without accounts, can be forced to sign up.

In addition to the immense new revenue stream created under EFT 99 and billed directly to consumers, there is also the benefit of holding billions of new dollars and profiting from interest on the float. It is unclear how many additional dollars financial institutions would derive from deposits required under EFT 99, but given deposits worth billions of dollars each month it is likely that float income is as large or larger than the fee income extracted from consumers. For example, if average additional deposits amount to $10 billion, then at three percent interest such deposits would yield $300 million in new income, each year, for financial institutions. Given Treasury's goal of moving 20 million monthly checks from paper to electronic transmission, it is likely that deposits -- and profits -- will be vastly greater than $300 million per year.

Recommendations

Any discussion of payments to federal recipients must begin with the understanding that the government has no money, it is the money of the people and must be handled in a way that places the interests and preferences of the public first.

If we look at EFT 99 from the perspective of what the public wants -- and the IRS refund program provides an authoritative, non-coercive index of this matter -- then it is clear that EFT 99 cannot succeed as a mandate, as a transfer tax, as cost shifting, as a discriminatory policy or as a denial of the public's traditional right to receive benefit payments in the comfort and security of their homes.

We believe that the public response to EFT 99 is likely to follow the pattern seen when the Federal Trade Commission attempted to reduce the standards required to mark goods as being "Made in U.S.A." At first, this was a bureaucratic measure buried in thick documents and obscure language. But as the meaning became both clear and widespread, enormous public opposition evolved. The result is that the FTC proposal is being withdrawn (See: *The Washington Post*, "FTC Retreating on 'Made in U.S.A,'" November 1, 1997).

We believe that if Treasury goes forward with the EFT 99 proposal as it is currently written, then it will be the focus of growing opposition, similar to that which emerged to fight the FTC proposal. We expect that a large number of retirement associations, civil rights groups, consumer organizations, veterans groups, unions, corporations, farm organizations, disability-rights coalitions, religious congregations and others will distribute waiver information and advice. The result will be an enormous public outcry opposing EFT 99 as well as truck-loads of waivers for Treasury to process.

Alternatively, why not modify the EFT program so that it is non-coercive? PaperCom welcomes the efforts of Treasury to provide an electronic funds transfer option for those who want it. We see no reason why members of the public should be denied the right to choose the payment option they prefer. (Banks should pay interest on float).

How can EFT 99 be made acceptable? Here are the baseline standards which are needed.

First, citizens must be allowed freedom of choice, the right to select the form of payment best suited to their needs and preferences. There should be no requirement, preference or penalty for the election to use any payment option.

Second, freedom of choice must be extended to all federal recipients, including those who have been receiving electronic payments since July 26, 1996.

Third, we believe the Treasury has an absolute obligation to protect the public against costly and unfair program fees. Financial institutions that participate in EFT 99 already have the benefit of holding public dollars and it is neither fair nor equitable to charge steep fees in addition. We believe the following steps must be taken to protect the public interest.

*Under EFT 99, all beneficiary recipients electing electronic payments must have access to EFT 99 accounts at the bank, savings and loan association, credit union, depository institution or securities brokerage of their choice.

*No individual shall be permitted to have more than one EFT 99 account.

*Individuals receiving funds electronically shall be allowed to make one withdrawal per week from the recipient's financial institution without charge, whether from an ATM or branch.

*Individuals electing electronic payments under EFT 99 shall be allowed to acquire checks at cost and to write up to five checks per month at no cost. This will at least allow for the payment of rent, water, electric, gas and tax bills. The provisions of such accounts by financial institutions could be seen as one step toward compliance under the Community Reinvestment Act.

*Individuals receiving electronic payments under EFT 99 shall be allowed to check account balances at any time and without cost.

*Under no condition shall a financial institution be allowed to charge an overdraft fee or enter a negative credit remark because of events set in motion by the failure of the Federal Government to make an electronic deposit by a certain date.

Fourth, we believe that program options should be explained with concise and clear documents available in English, Spanish and such other languages as the Census Bureau certifies are used at home by at least 100,000 people.

Fifth, program option information should be available from Treasury, all financial institutions participating in EFT 99 programs, and any entity or governmental office willing to provide such information to the public.

Sixth, the money in question is the people's money. Individuals should have the right to receive checks at home or electronically, as they prefer, for any reason, including personal preference. They should also have the right to change options at least once a year without penalty or cost.

It is our hope that this analysis of the EFT 99 program, as well as the suggested modifications, will be acceptable to Treasury. We look forward to the creation of a program which places the interests of recipients first, something possible with a modified EFT 99 effort.

Sincerely,

Maynard H. Benjamin

Maynard H. Benjamin, CAE
Executive Director

cc: The Honorable Robert Rubin, Secretary of the Treasury
The Honorable Trett Lott, Majority Leader, United States Senate
The Honorable Alfonse M. D'Amato, Chairman, Senate Committee on Banking, Housing and Urban Affairs
The Honorable Paul S. Sarbanes, Senate Committee on Banking, Housing and Urban Affairs
The Honorable Jim Leach, Chairman, House Committee on Banking and Financial Services
The Honorable John J. LaFalce, House Committee on Banking and Financial Services
The Honorable John H. McHugh, House Subcommittee on the Postal Service, Committee on Government Reform and Oversight
The Members of the PaperCom Alliance
The Board of Directors of the Envelope Manufacturers Association